

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

IN RE:	:	
	:	
RJH AND COMPANY, INC.,	:	CASE NO. 5:11-bk-02060-JJT
	:	
DEBTOR	:	CHAPTER 11
	:	
ROBERTA A. DeANGELIS	:	
UNITED STATES TRUSTEE,	:	
	:	
MOVANT	:	
	:	
v.	:	
	:	
RJH AND COMPANY, INC.,	:	
	:	
RESPONDENT	:	

MOTION OF THE UNITED STATES TRUSTEE TO DISMISS CHAPTER 11 CASE

NOW COMES the United States Trustee (“UST”), through undersigned counsel, and respectfully moves this Court to enter an Order dismissing Debtor’s chapter 11 case for cause, and in support thereof, states as follows::

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. Venue of this matter is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.
2. This matter is a core proceeding pursuant to 28 U.S.C. § 157(a), (b)(1) and (2)(A).
3. The statutory predicates for the relief sought herein are 11 U.S.C. §§ 105 and 1112(b).
4. On March 24, 2011 (the “Petition Date”), Debtor, which is a corporation, filed a voluntary petition for relief under chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”). This is Debtor’s second chapter 11 case, the first case bearing Docket No. 5:10-bk-09451-RNO having been filed on November 22, 2010, and subsequently dismissed without

prejudice on December 28, 2010 for failure to pay the filing fee.

5. Debtor's bankruptcy petition was not signed by an attorney and the Court's docket indicates that Debtor's chapter 11 case was filed *pro se*. Debtor's first chapter 11 case was also filed *pro se*.

6. Debtor is an artificial entity. As such, it does not have the right to appear *pro se* and can only appear in bankruptcy court through counsel. See Rowland v. California Men's Colony et al., 506 U.S. 194, 201-02 (1993) ("It has been the law for the better part of two centuries . . . that a corporation may appear in federal courts only through licensed counsel . . . As the courts have recognized, the rationale for that rule applies equally to all artificial entities."). See also, Move Organization v. United States Department of Justice et al., 555 F. Supp. 684, 693 (E.D. Pa. 1983) ("[C]ourts have repeatedly held that corporations and other organizations must be represented by counsel.")

7. It what may be an attempt to circumvent the requirement that an artificial entity be represented by counsel and to preclude dismissal of the instant case, Richard J. Harley, the president of the Debtor, has listed himself as a joint debtor on the Debtor's petition.

8. The Bankruptcy Code does not authorize joint petitions for more than one entity other than in the case of a debtor and spouse filing a joint case under Section 302. See generally 9A Am. Jur. 2d *Bankruptcy* § 934 ("With the exception for joint cases for spouses under 11 U.S.C.A. § 302, two separate legal entities are not permitted to file one bankruptcy case, and petitions improperly joining two or more debtor entities are subject to dismissal.").

WHEREFORE, for the reasons stated above, the United States Trustee respectfully requests that this Court enter an Order dismissing the within case, and grant such other and further relief as is just and equitable.

Respectfully submitted,

ROBERTA A. DeANGELIS
UNITED STATES TRUSTEE

Anne K. Fiorenza
Assistant United States Trustee

By: /s/ Gregory B. Schiller
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Dated: March 28, 2011

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ROBERTA A. DeANGELIS	:	
UNITED STATES TRUSTEE,	:	
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MOVANT	:	
	:	
v.	:	
	:	
RJH AND COMPANY, INC.,	:	
	:	
RESPONDENT	:	

CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2011, I electronically filed the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system which sent notification of such filing to Filing Users. I hereby further certify that I have sent a copy of the foregoing by first class United States mail, postage prepaid, to the following entity:

RJH and Company, Inc.
Attn.: Richard J. Harley, President
P.O. Box 337
Shawnee on Delaware, PA 18356

Respectfully submitted,

ROBERTA A. DeANGELIS
UNITED STATES TRUSTEE

Anne K. Fiorenza
Assistant United States Trustee

By: /s/ Gregory B. Schiller
Gregory B. Schiller, Esq.
Trial Attorney
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